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August 28, 2001

BY HAND

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Reply Comments of Innovative Telephone
Federal-State Board on Universal Service, CC Docket No. 96-45
Further Notice of Proposed Rulemaking (released May 23, 2001)

Dear Ms. Salas:

Enclosed are an original and four copies of the Reply Comments of Innovative Telephone in the above-referenced proceeding. In accordance with the instructions in the Further Notice of Proposed Rulemaking, we are sending three paper copies and one diskette copy of this filing to Sheryl Todd, Accounting Policy Division, and one diskette copy to the Commission's copy contractor, International Transcription Service, Inc.

If you have any questions regarding this filing, please contact me at the number shown above.

Sincerely,

Derek A. Yeo

Filed September 11, 2001
10:14 AM
014

Enclosures: Innovative Telephone Reply Comments (original and four copies)
cc: Ms Sheryl Todd, Accounting Policy Division (w/ three paper copies and one diskette copy)
International Transcription Service, Inc. (w/ one diskette copy)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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OFFICE OF THE SECRETARY

Federal-State Joint Board on
Universal Service

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) CC Docket No. 96-45
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REPLY COMMENTS OF INNOVATIVE TELEPHONE

Innovative Telephone (formerly known as the Virgin Islands Telephone Corporation),¹ by its attorneys, hereby submits these reply comments to the Commission's *Further Notice of Proposed Rulemaking* ("FNPRM") released on May 23, 2001 as part of the *Fourteenth Report and Order* in CC Docket 96-45.²

Innovative Telephone urges the Commission, in the event that it adopts any freeze on the high-cost loop support in competitive study areas in this proceeding, to also adopt a mechanism that will allow incumbent insular and rural carriers to receive increased support to recover the costs of catastrophic events affecting their ability to provide supported services.

Innovative Telephone agrees with the comments filed by the United States Telecom Association ("USTA") and other parties that urge the Commission not to freeze per-line support

¹ The Virgin Islands Telephone Corporation is doing business under the trade name "Innovative Telephone."

² The *FNPRM* is contained in Section V of the Commission's *Fourteenth Report and Order*, *Twenty-Second Order on Reconsideration*, and *Further Notice of Proposed Rulemaking* in CC Docket No. 96-45, and *Report and Order* in CC Docket No. 00-256, FCC 01-157 (rel. May 23, 2001) ("*Fourteenth Report and Order*"). The *Fourteenth Report and Order* was summarized in the Federal Register on June 5, 2001. See 66 Fed. Reg. 30080 (2001). The *FNPRM* was summarized in the Federal Register on June 29, 2001. See 66 Fed. Reg. 34603 (2001).

because the threat of excessive fund growth over the five-year term of the interim plan is speculative.³ Innovative Telephone agrees with the USTA that the Commission should instead monitor whether there is universal service fund growth due to support payments to competitive eligible telecommunications carriers (“CETCs”), and take action only if it then determines that support to CETCs is growing too fast.⁴ Simply put, Innovative Telephone agrees that the Commission “should refrain from adopting a remedial freeze for a problem that may not materialize under the interim plan.”⁵

In the event, however, that the Commission were to adopt the freeze on per-line support, Innovative Telephone strongly urges the Commission also to adopt the Rural Task Force’s (“RTF”) proposed catastrophic event exception. Both the RTF and the Federal-State Joint Board (“Joint Board”) have recommended that the Commission include a mechanism to adjust frozen per loop support to ensure that insular and rural ILECs are able to receive sufficient support following catastrophic events. The RTF, which consists of a diverse group of individuals from industry and government, unanimously approved a *Recommendation* which expressly included a provision allowing for catastrophic event support adjustments.⁶ The Joint Board subsequently

³ USTA Comments at 2; *see also* GVNW Consulting, Inc. Comments at 3; Montana Telecommunications Association Comments at 2; Nebraska Rural Independent Companies Comments at 2-5; NRTA and OPASTCO Comments at 2-4; NTCA Comments at 2-3; Small Western LECs Comments at 2-3; Telecom Consulting Associates Comments at 3-8.

⁴ *See* USTA Comments at 2; *see also* GVNW Consulting, Inc. Comments at 3-4; NRTA and OPASTCO Comments at 2; Small Western LECs Comments at 3; Telecom Consulting Associates Comments at 7.

⁵ USTA Comments at 2.

⁶ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service (rel. Sept. 29, 2000), § IV.B.1.c.(ii)(E) at 26 (“*Rural Task Force Recommendation*” or “*Recommendation*”) (filed as attachment to Letter from William R. Gillis, Chair, RTF, to Magalie Roman Salas, FCC, Sept.

issued a *Recommended Decision* which recommended that the Commission adopt the *RTF Recommendation* in its entirety, including the RTF's catastrophic event provision.⁷ Both the RTF and the Joint Board thus recognized that a freeze on per-line support for insular and rural ILECs' must be accompanied by a means of adjusting frozen per-line support levels in the wake of natural disasters that directly affect their ability to deliver universal service. Innovative Telephone urges the Commission to adopt the catastrophic event provision recommended by the RTF and supported by the Joint Board in the event that it adopts rules to freeze per-line support for insular and rural carriers in the future.

A catastrophic event adjustment mechanism is critical to ensure that insular and rural ILECs recover costs resulting from extraordinary natural disasters. As the RTF has explained, a catastrophic event adjustment mechanism would be essential to preserve the existing status quo if the Commission were to freeze per-line support.⁸ Prior to the Commission's adoption of the *Fourteenth Report and Order*, insular and rural carriers were allowed to recover costs resulting from natural disasters from the universal service fund.⁹ The same is true today, because the Commission did not adopt the RTF's proposed freeze on per-line support in the *Fourteenth Report and Order*.¹⁰ Therefore, if the Commission were to adopt a per-line support freeze in the course of this proceeding, it should continue to allow insular and rural carriers to recover costs

29, 2000).

⁷ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, FCC 00J-4, ¶¶ 21-22 (rel. Dec. 22, 2000) ("*Recommended Decision*").

⁸ *See Comments of the Rural Task Force in Response to Further Notice of Proposed Rulemaking*, CC Docket No. 96-45, at 9 (Feb. 20, 2001) ("RTF Comments").

⁹ *See id.*

¹⁰ *See Fourteenth Report and Order* at ¶ 130.

arising from catastrophic events by adopting the catastrophic event provision included in the *RTF Recommendation*.

The RTF explained the critical need for a catastrophic event mechanism in comments submitted in support of its *Recommendation*, which included a freeze on per-line support:

It is axiomatic that the ability of an insular or rural company to rebuild its network after a disaster is critical to providing universal service to all Americans, the policy at the heart of Section 254 of the 1996 Act. The catastrophic events relief provision in the RTF Recommendation is crucial to the new rural and insular universal service mechanism. The new frozen per-line support provision could limit the ability of rural and insular carriers to recover from disasters and preserve universal service because the per-line support would not include the extraordinary cost of recovering from a disaster that occurred after the support was frozen. Therefore, a limited exception to the per-line freeze in competitive study areas was necessary to fulfill Section 254's universal service mandate for insular and rural areas.¹¹

This reasoning would apply equally in the future to justify a catastrophic event exception, if the Commission were to adopt a freeze on per-line support. Without such a mechanism, insular areas in particular would not receive sufficient support. As Innovative Telephone has explained in various comments submitted in this docket, insular areas are particularly vulnerable to significant cost "spikes" resulting from hurricanes and other severe weather patterns.¹² Accordingly, in the event the Commission in the future freezes per-line support, it should also adopt the narrow catastrophic event exception contained in the *RTF Recommendation* to ensure that insular and rural carriers receive sufficient support at times of critical need.

¹¹ See RTF Comments at 9.

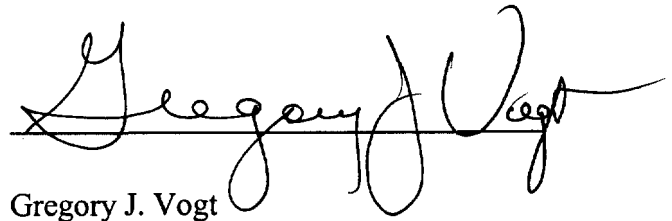
¹² See Reply Comments of Innovative Telephone, CC Docket No. 96-45, at 11 (Mar. 12, 2001); Comments of Innovative Telephone, CC Docket No. 96-45, at 13-15 (Feb. 26, 2001).

For the above reasons, Innovative Telephone urges the Commission to adopt the RTF's catastrophic event support adjustment mechanism in the event that it adopts a freeze on per-line support for insular and rural carriers in competitive study areas.

Respectfully submitted,

INNOVATIVE TELEPHONE

By:

A handwritten signature in black ink, appearing to read "Gregory J. Vogt", written over a horizontal line.

Samuel E. Ebbesen
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Its Attorneys

August 28, 2001


SERVICE LIST

I hereby certify that on this 28th day of August 2001, I caused copies of the Reply
Comments of Innovative Telephone to be delivered by hand to the following:

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Office of the Secretary
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